PHS Los Angeles, CA

# UNITED STATES OF AMERICA

# BEFORE THE NATIONAL LABOR RELATIONS BOARD

SODEXO AMERICA LLC

and Case 21-CA-039086

PATRICIA ORTEGA

SODEXO AMERICA LLC; AND KECK HOSPITAL OF USC, FORMERLY KNOWN AS USC UNIVERSITY HOSPITAL

and Case 21-CA-039109

SERVICE WORKERS UNITED

KECK HOSPITAL OF USC, FORMERLY KNOWN AS USC UNIVERSITY HOSPITAL

and Cases 21-CA-039328 21-CA-039403

NATIONAL UNION OF HEALTHCARE WORKERS

## ORDER

On June 13, 2013, the National Labor Relations Board issued a Supplemental Decision and Order<sup>1</sup> in this proceeding, finding that the Respondent violated Section 8(a)(1) of the Act by disciplining four employees pursuant to its unlawfully broad off-duty

<sup>&</sup>lt;sup>1</sup> 359 NLRB No. 135.

no-access policy. Respondent Keck Hospital of USC, formerly known as USC University Hospital, filed a motion for reconsideration.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

In its motion, the Respondent contends that the Board's order is unconstitutionally vague, that the Board had no basis to issue a broad remedial order, and that the Board had no authority to modify its order in *Sodexo America, LLC*, 358 NLRB No. 79 (2012), currently under review by the U.S. Court of Appeals for the District of Columbia Circuit.

Having duly considered the matter, and pursuant to our authority under Section 102.49 of the Board's Rules and Regulations, we revise the Supplemental Decision and Order as stated below to conform with our standard remedial language. Insofar as the Respondent's motion seeks this change to the remedial language in the Order, we deny it as moot. In all other respects, we find that the motion is lacking in merit and fails to present "extraordinary circumstances" warranting reconsideration under Section 102.48(d)(1) of the Board's Rules and Regulations.

IT IS ORDERED that the Board's Order be modified as follows:

1. Substitute the following for paragraph 1(a).

Threatening to arrest, verbally warning, suspending, demoting, or otherwise disciplining employees who, by engaging in conduct that implicates concerns underlying Section 7 of the Act, violate the Hospital's unlawful rule that limits off-duty employee access to the Hospital's facility for some purposes while permitting access for other purposes.

2. Substitute the attached notice for the notice entitled "Appendix."

IT IS FURTHER ORDERED that the Respondent's motion for reconsideration is denied.

Dated, Washington D.C. January 29, 2014.

Mark Gaston Pearce,	Chairman
Kent Y. Hirozawa,	Member
Nancy Schiffer,	Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

### **APPENDIX**

# NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union Choose representatives to bargain with us on your behalf Act together with other employees for your benefit and protection Choose not to engage in any of these protected activities.

WE WILL NOT threaten to arrest, verbally warn, suspend, demote, or otherwise discipline employees who, by engaging in conduct that implicates concerns underlying the rights listed above, violate the Hospital's unlawful rule which limits off-duty employee access to the Hospital's facility for some purposes while permitting access for other purposes."

WE WILL NOT in any like or related manner interfere with, restrain or coerce you in the exercise of the rights listed above.

WE WILL make Michael Torres whole for any loss of earnings and other benefits resulting from his unlawful suspension and demotion, plus interest compounded daily.

WE WILL compensate Michael Torres for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file a report with the Social Security Administration allocating his backpay award to the appropriate calendar quarters.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful verbal warnings given to Alex Correa, Ruben Duran, and Noemi Aguirre and the unlawful suspension and demotion of Michael Torres, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done and that the unlawful discipline will not be used against them in any way.

KECK HOSPITAL OF USC, FORMERLY KNOWN AS USC UNIVERSITY HOSPITAL